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Letter dated 31 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached addendum to the report from Antigua and Barbuda submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 22 July 2002 from the Permanent Representative of Antigua and Barbuda to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Please find attached the submission from Antigua and Barbuda in regard to Security Council resolution 1373 (2001) (see enclosure). Antigua and Barbuda regrets the delay, but my country was determined to provide an adequate report, even with the constraints of a small staff saddled with an extensive workload, including having to fill out questionnaires from the International Monetary Fund, the Financial Action Task Force on Money Laundering and the Organisation for Economic Cooperation and Development, in addition to fulfilling the demands of the various United Nations agencies.

We hope that you find our effort acceptable, and stand ready to render any further assistance required.

(*Signed*) Patrick Albert **Lewis**
Ambassador

Enclosure

Report of Antigua and Barbuda to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001*

1. Introduction

Antigua and Barbuda in corporation with other member states of the United Nations is fully committed to the eradication of acts of terrorism and terrorist activities that threaten international peace and security. Antigua and Barbuda is also committed to cooperate with the Counter-Terrorism Committee established by the United Nations Security Council under Resolution 1373 of 2001 to combat international terrorism.

2. Legislation

Before September 11, 2001 Antigua and Barbuda already had on its Statute Book "The Suppression of Terrorism Act 1993, No. 17 of 1993". Section 5 of the Act makes it an offence to engage in certain acts such as murder, manslaughter, rape, kidnapping and abduction, false imprisonment, willful fire-raising, use of explosives and gunpowder to commit felony etc.

In the wake of September 11, 2001, Antigua and Barbuda passed the Prevention of Terrorism Act, No. 15 of 2001 on 27th December 2001. The Prevention of Terrorism Act prohibits the financing of terrorist organizations as well as terrorist activities. It further prohibits the supply, sale or transfer to terrorist or terrorist organizations of arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, aircraft or ship or spare-parts and related materials in respect of the above. Under the Prevention of Terrorism Act, dealing in property of any kind with terrorist or terrorist organization is prohibited. The Act also prohibits any person in Antigua and Barbuda from offering financial services to terrorist or terrorist organizations.

* The annexes are on file with the Secretariat and are available for consultation.

The Prevention of Terrorism Act authorises the Supervisory Authority appointed under the Money Laundering Prevention Act to publish the names of persons suspected by him to be terrorist or terrorist organizations in the Government Gazette and to freeze the accounts and other assets of such persons.

ACTION TAKEN PURSUANT TO THE PREVENTION OF TERRORISM ACT

3. Executive Action Taken by Government

The Government of Antigua and Barbuda has issued a warning alert to immigration and customs officers to be on the lookout for persons in respect of whom information has been received by Antigua and Barbuda from international law enforcement agencies as persons suspected to have been engaged in terrorist activities or belonging to terrorist organizations.

4. Operative Paragraph 1

Antigua and Barbuda has passed the Prevention of Terrorism Act 2001, No. 15 of 2001 The Act entered into force on 27th December, 2001. The Act prohibits the financing of terrorists and terrorist activities and creates offences for violation of any of the prohibitions. Violation of any of the prohibitions carries a maximum penalty of twenty-five years imprisonment and a fine of $100,000.00. In addition, the Court is authorised to order the forfeiture of the property and assets involved. Antigua and Barbuda is therefore in full compliance with the financing related element of Resolution 1373 of 2001.

Subparagraph (a) – What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your response to question on 1(b)-(d)?

The Supervisory Authority has exercised its powers under the Prevention of Terrorism Act and has published the names of suspected terrorists and terrorist organizations. The publication appeared in Government Gazette Nos. 19 and 20 of April 2002. The Supervisory Authority has also issued instructions to all financial institutions to freeze the accounts of all terrorists and terrorists organizations which were published in the Gazette. The financial institutions were also advised to notify the Supervisory Authority of transactions involving the accounts of the terrorists and terrorists organizations named in the publication. The financial institutions have also been instructed to find out whether any of the persons or organizations whose names were published by the Supervisory Authority ever operated account with their institutions.

Antigua and Barbuda as a member of the Caribbean Financial Action Task Force on Money Laundering supports the extension of its mandate to include the suppression of the financing of terrorism.

Subparagraph (b) – What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The Prevention of Terrorism Act 2001, No. 15 of 2001 creates a number of offences. In section 5 of the Act, it is an offence to transact business or deal in property of any kind situated in Antigua and Barbuda, which belongs to a terrorist or a terrorist organization. It is also an offence for any person in Antigua and Barbuda to carry out any transaction or deal in property of any kind outside Antigua and Barbuda which belongs to a terrorist or a terrorist organization. The prohibition named specifically, the property of the Government of the Taliban in the territory of Afghanistan, the Al-Qaida Organization or any terrorist organization published in the Gazette pursuant to the provisions of the Act. Transactions involving property or business known to belong to or in the name of Osama bin Laden was specifically prohibited.

The penalty for any person convicted of an offence for violating any of the prohibitions is a maximum prison term of twenty-five (25) years, and in addition the court is authorised

to forfeit the property and any proceeds derived from the transaction or dealings to the Crown.

Under the Prevention of Terrorism Act, a financial institution commits an offence if it fails to comply with an instruction issued to it by the Supervisory Authority concerning an account or other asset of a terrorist or a terrorist organization. A penalty of $100,000 may be imposed on any institution which is convicted for failure to comply with the instruction.

Subparagraph (c) – What legislation and procedure exist for freezing accounts and assets at banks and financial institutions? It would be helpful if states supplied examples of any relevant action taken.

Accounts and Assets are frozen by the Government under the Money Laundering (Prevention) Act 1996, the Proceeds of Crime Act 1993 and the Terrorism Prevention Act 2001.

No individuals or groups designated by the United Nations Security Council have been identified or detected as the holders or owners of any accounts or assets in Antigua and Barbuda.

Subparagraph (d) – What measures exist to prohibit activities listed in this subparagraph?

The Prevention of Terrorism Act prohibits any person in Antigua and Barbuda from having any dealings in property wherever situated of any individual or organization designated as a terrorist or terrorist organization. The Act designated the Government of Afganistan under the Taliban, Al Qaida organization and Osama bin Laden.

The Act further prohibits financial institutions operating in Antigua and Barbuda from offering financial Services to any designated terrorist or terrorist organization.

Under the Prevention of Terrorism Act, the supervisory Authority is authorised to require any financial institution or any person having possession of or control over any assets to freeze the accounts and assets belonging to Osama bin Laden, Al Qaida or any other named terrorist organization. Any person, who is so required to freeze the accounts and assets, commits an offence if he fails to comply with the request.

Operative paragraph 2

Subparagraph (a) – What legislation or other measures are in place to give effect to this subparagraph? In particular what offences in your country prohibit (i) the recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Section 4 of the Prevention of Terrorism Act 2001 prohibits the sale, transfer or supply of, directly or indirectly arms, weapons, ammunitions, military vehicles and equipment paramilitary equipment, aircraft or ship or spare parts and related material in respect of the above mentioned materials to any designated terrorist or terrorist organization or the Government of Afganistan under the control of the Taliban.

The prohibition includes, providing technical advice, assistance or training related to military activities or armed personnel. Also included in the prohibition are certain chemicals, such as chemical ascetic anhydride or any chemical, biological or nuclear weapons of mass destruction.

Subparagraph (b) - What other steps are being taken to prevent the commission of terrorist acts, and in particular what early warning mechanism exist to allow exchange of information with other states?

The immigration laws of Antigua and Barbuda contain provisions for declaring certain persons, which may include designated terrorists, as prohibited immigrants.

Consequently, a prohibited immigrant found in Antigua and Barbuda is liable to be deported.

Antigua and Barbuda currently cooperates with countries in the region through the Regional Security System (RSS) to monitor the movement of certain individuals considered to be undesirable, either as suspects in drug trafficking, money .aundering activities or persons belonging to terrorist organizations or associated with designated terrorists.

Cooperation with external intelligence agencies, such as interpol and bilateral arrangements are some of the steps by which exchange of information and intelligence gathering on terrorists and terrorist activities are conducted.

Subparagraph (c) – What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if states supplied examples of any relevant action taken.

Safe haven to persons who finance, plan, facilitate or commit terrorist acts would be denied to citizens of foreign countries by means of the Immigration and Passport Act Cap. 208 (IPA). Citizens of Antigua and Barbuda who engaged in such activities would be prosecuted under the Prevention of Terrorism Act, 2001 (PTA) or the Suppression of Terrorism Act 1993 (STA) or would be extradited to the foreign country in which such crimes had been committed.

The Immigration and Passport Act contains provisions which empower the Governor-General, in his absolute discretion, to prohibit by Order, an alien, or class of Aliens, from entering Antigua and Barbuda. The Act also confers power on the Cabinet to

prohibit persons who, on reliable information or advice, are deemed by the Order of the Cabinet, to be undesirable inhabitants of or visitors to Antigua and Barbuda.

Under the two provisions referred to above a designated terrorist or a person who associates with terrorist or finances or in any other manner aids terrorists will be considered undesirable and prohibited from entering Antigua and Barbuda or, if found in Antigua and Barbuda deported therefrom.

Subparagraph (d) – What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of relevant action taken.

The Suppression of Terrorism Act 1993 created terrorist offences which are extraterritorial. Under section 5(1) of the Act if any person, whether a citizen of Antigua and Barbuda or not, does in any country any act which if he had done in Antigua and Barbuda would have made him guilty in Antigua and Barbuda, he shall, in Antigua and Barbuda, be guilty of the offence of which the act would have made him guilty if he had done it there.

Also in section 5(4) of the Act, if a person who is not a citizen of Antigua and Barbuda does outside Antigua and Barbuda and the country of which he is a citizen, any act which makes him in that country where the act was done guilty of an offence and which, if he had been a citizen of Antigua and Barbuda would have made him in Antigua and Barbuda guilty of a terrorist offence, he shall in Antigua and Barbuda be guilty of the offence of which the Act would have made him guilty if he had been a citizen of Antigua and Barbuda.

Subparagraph (e) - What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

Antigua and Barbuda has enacted laws which create serious offences that are described

in Conventions to which Antigua and Barbuda is a party. The offences referred to in the conventions are enacted into law under the Suppression of Terrorism Act 1993, the Nuclear Material (Offences) Act 1993, the Internationally Protected Persons Act 1993.

The Government of Antigua and Barbuda is now devising amendment to the Terrorism Prevention Act 2001 which would create specific offences to address problems that have developed since September 11, 2001.

Subparagraph (f) – What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

There are three existing statutes under which Antigua and Barbuda is obligated to assist other states in the investigation and prosecution of criminal offences. These are: The Mutual Assistance in Criminal Matters Act 1993, No. 2 of 1993, The Extradition Act 1993, No. 12 of 1993 and The Money Laundering Prevention Act 1996, No. 9 of 1996.

The Mutual Assistance in Criminal Matters Act prescribes procedures for providing assistance to member States of the Commonwealth on request when such states are investigating or prosecuting crimes of which the requested State has some information which may assist the investigation or prosecution of the matter. Provision is also made under the Act to provide assistance to Non-Commonwealth countries. These offences include serious crimes and terrorist acts.

The matters in respect of which mutual legal assistance is provided, includes serious offences created under The Suppression of Terrorism Act, The Nuclear Material Offences Act, The Taking of Hostages Act, The Hijacking Act and the Genocide Act.

The Extradition Act provides procedures for the extradition of persons who are in Antigua and Barbuda and are wanted in countries outside Antigua and Barbuda for having committed certain offences, including terrorist crimes in those countries.

Provision is also made under the Money Laundering Prevention Act to enable Antigua and Barbuda to cooperate with international agencies in the investigation of criminal activities involving money laundering, proceeds derived from criminal activity and drug related offences.

The Law enforcement agencies of Antigua and Barbuda cooperate fully with Interpol, FBI and the Royal Canadian Mounted Police in the investigation and prosecution of cross border crimes.

The Government of Antigua and Barbuda receives, from time to time, requests made by the Government of the United States of America and the Government of Canada under the Extradition Act to extradite persons living in Antigua and Barbuda, who are wanted in the United States and Canada for offences committed in those countries. The procedure is to apply through diplomatic channels for the transfer to the requesting State the wanted persons. The Extradition Act supporting the application is evaluated and if the evidence satisfies the extradition requirements the court may make an order for the extradition of the persons concerned.

Antigua and Barbuda has also cooperated with the United States of American, Canada, United Kingdom and Belgium in providing assistance under the Mutual Assistance in Criminal Matters Act and the Mutual Assistance Treaty with the United States of America.

Subparagraph (g) – How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc.?

The Immigration and Customs Services in Antigua and Barbuda have since September 11, 2002 established strict border checks of the movement of goods and craft entering Antigua and Barbuda.

Pursuant to Resolution 1373 (2001) specific measures have been taken to tighten security measures at Antigua and Barbuda borders. All luggage intended to accompany passengers are examined and checked thoroughly before they are put on the flight. The examiners have been trained to look for certain strategic goods that may be used as precursors for terrorist weaponry. These strict checks have led to the discovery of banned substances, smuggled goods and undeclared currency.

Under the Immigration and Passport Act authority is given to the Cabinet to declare certain undesirable persons or class of persons as prohibited immigrants. Terrorists and persons known to belong to terrorist organizations or known to finance terrorist activities fall within this class of persons. Consequently, any such person who is found in Antigua and Barbuda is liable to be deported.

Applicants who apply for Antigua and Barbuda citizenship must have resided in the country for no less than seven years and are required to provide background information from their countries of origin and the names and addresses of their parents. They must also provide a police report and are subjected to screening and checks against profiles.

Antigua and Barbuda passports, like passports of many countries, include a number of security features which aim at preventing forgery, counterfeiting and fraudulent use. Antigua and Barbuda requires the nationals of certain countries to obtain visas before they enter into the country.

Operative paragraph 3

Subparagraph (a) – What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Antigua and Barbuda has already established a sophisticated Financial Investigation Unit (FIU) for the enforcement of its anti-money laundering legislation – the Office of

National Money Laundering and Drug Control Policy (ONDCP). The Director of the ONDCP is the Supervisory Authority under the MLPA and therefore has extensive powers in relation to domestic financial institutions and receives financial intelligence from such institutions. The ONDCP has also established widespread links with FIU's both within the Caribbean region and the Americas and Europe. The Director of the ONDCP is also the Supervisory Authority under the Prevention of Terrorism Act, 2001 (PTA). This means that the numerous channels of communication established by the ONDCP for money laundering control are also available for control of terrorism and terrorist financing.

Antigua and Barbuda has multilateral arrangements with international organizations for sharing information relating to transnational organized crime, including terrorist activities. The Police Force of Antigua and Barbuda works closely with the Police Forces of territories in the Caribbean region. Formal and informal arrangements exist between Antigua and Barbuda and other countries under which assistance is provided for combating serious crimes, including terrorism and related crimes. Additionally, Antigua and Barbuda has an informal arrangement with the Royal Canadian Mounted Police and the FBI for information sharing and for assisting each other in the investigation and prosecution of cross border crimes.

Antigua and Barbuda, belongs to the Regional Security System of Eastern Caribbean countries and Barbados. The Security System is designed to provide a common mechanism for territorial surveillance and the sharing of information relating to the movement of drug traffickers and the activities of criminal gangs within the region, including information for the combating of terrorism and transnational crimes.

Subparagraph (b) – What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Through the Regional Security System, the Coast Guard, Immigration and Customs Services monitor the movement of persons and goods, including smuggled goods.

Regulations exist under the Customs Control and Management Act for all passengers departing from or arriving in Antigua and Barbuda to declare, among other things, any currency exceeding US$5,000.00 which such travellers carry on them and to provide information regarding the source of that currency. Firearms are also prohibited on flights and custom officers are particularly instructed to be vigilant in looking for firearms and strategic goods that may be used as offensive weapons.

The Immigration Laws of Antigua and Barbuda empower the Government to declare certain persons or class of persons to be prohibited immigrants. A prohibited immigrant is not allowed to enter Antigua and Barbuda.

The Government of Antigua and Barbuda has taken appropriate steps to ratify in accordance with its laws the UN Security Council Conventions for the combating of terrorism.

Subparagraph (c) – What steps have been taken to cooperate in the areas indicated in this subparagraph?

The Government of Antigua and Barbuda has ratified United Nations Security Council Resolutions and other international Resolutions against Terrorism. These Conventions call for cooperation in combating terrorism and other transnational crimes.

The Mutual Assistance in Criminal Matters Act, the Mutual Assistance in Criminal Matters Treaty, the Extradition Act as well as other informal arrangements with international and regional organizations are means by which Antigua and Barbuda cooperates with other states to combat terrorism and other transnational crimes.

Subparagraph (d) – What are your Governments intentions regarding signing and/or ratifying the Convention and protocols referred to in this subparagraph?

The Government of Antigua and Barbuda has ratified the following UN Security Council

Conventions for combating and eliminating terrorism:

1. The Multilateral Convention on the prohibition of the Development, Production and stockpiling of Bacteriological (Biological) and Toxin Weapon and on their Destruction.

2. The Convention on the Physical Protection of Nuclear Material. Implemented by "The Nuclear Material (Offence) Act, 1993, No. 16 of 1993" which came into force on 10th June, 1993.

3. The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons. Implemented by "The Internationally Protected Person Act 1993, No. 14 of 1993," The Act came into force on the 10th June 1993.

4. The International Convention against the Taking of Hostages 1979. Implemented by "The Taking of Hostages Act, 1993, No 4 of 1993" The Act came into force on 18th February, 1993.

5. The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. Implemented by "The High Jacking Act Cap. 200." This Act came into force on 3rd December, 1975.

6. The Convention on the Prevention of the Crime of Genocide 1948. Implemented by "The Genocide Act Cap. 191. The Act came into force on 3rd December, 1975.

Antigua and Barbuda passed the Suppression of Terrorism Act, No. 17 of 1993 in 1993. This Act provides, among other things, a schedule specifying offences that constitute terrorist crimes. The offences specified in the Act, includes murder, manslaughter, rape, kidnapping, false imprisonment, willful fire raising, use of explosives to commit felonies, causing gun powder to explode or sending any person an explosive substance with intent

to cause grievous bodily harm and placing gun powder near a building with intent to do bodily injury to any person.

Subparagraph (e) – Provide relevant information on the implementation of the Conventions, Protocols and Resolutions referred to in this subparagraph.

See paragraph (d) above

Subparagraph (f) – What legislative procedures and mechanisms are in place for ensuring that asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples and relevant cases.

The Government of Antigua and Barbuda intends to amend the Prevention of Terrorism Act by introducing a provision to prevent the grant of asylum to asylum seekers who are known or suspected of having engaged in terrorist activities

Antigua and Barbuda, being a party to the Convention on Refugees 1951 complies with the provision that renders ineligible for asylum persons who are wanted for or suspected of committing crimes against humanity.

Subparagraph (g) – What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Under the Immigration and Passport Act, the Government of Antigua and Barbuda is empowered to declare persons or class of persons considered to be undesirable as prohibited immigrants. Thus, prohibited immigrants are denied entry into Antigua and Barbuda. Any prohibited person found in Antigua and Barbuda is liable to be prosecuted and if convicted punished and expelled

Since September 11, 2002, the Immigration Authority in Antigua and Barbuda has taken measures to screen the passport and travel documents of all persons who enter into or depart from Antigua and Barbuda. Security checks are conducted through a computerised system. The system has the capability of providing instant identity and particulars, such as date of birth, place of birth, nationality and passport number of the holder of the passport. It also indicates the last place visited by the person and the identity of the carrier by which the person travelled to Antigua and Barbuda.

The computerised system enables the Immigration Authority to track down persons using false passports to travel out of Antigua and Barbuda.

Under the Extradition Act, persons convicted of terrorist crimes outside Antigua and Barbuda are liable to be extradited, or expelled from Antigua and Barbuda. These extraditable crimes are specified under the Extradition Act as crimes committed pursuant to the following Conventions:

(a) The Convention of certain acts on Board Aircraft, The Tokyo Convention 1963;

(b) The Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague Convention);

(c) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (the Montreal Convention 1971);

(d) The Convention for the Prevention and Punishment of Crimes against Internationally Protected Persons, UN General Assembly 1973;

(e) The International Convention against the Taking of Hostages (Hostages Convention 1979);

(f) The Convention on the Physical Protection of Nuclear Material (Nuclear Material Convention 1980);

(g) The United Nations Convention against Torture and Cruel Inhuman or Degrading Treatment or Punishment (The Torture Convention 1984); and

(h) The Convention on the Prevention and Punishment of the Crime of Genocide United Nations 1948.

Offences committed under the Suppression of Terrorism Act are extraditable without the existence of Extradition arrangement between Antigua and Barbuda and the requesting State.

Operative paragraph 4

The House of Representatives of Antigua and Barbuda has ratified the United Nations Convention against Transnational Organized Crime, and its Protocols against the Smuggling of Migrants and Trafficking of Persons.

The implementing legislation for this Convention is being written. The International Convention for the Suppression of the Financing of Terrorism and the Inter-American Convention for the Combating of Terrorism are due for ratification when the House of Representatives meets July, 2002.